

**ADMINISTRATIVE DIRECTIVE  
OF THE  
PRESIDENT JUDGE OF THE SUPERIOR COURT  
OF THE STATE OF DELAWARE**

**NO. 2002-1**

**TEMPORARY STAY OF PENDING TRIALS  
AND/OR PENALTY HEARINGS IN  
CAPITAL FIRST-DEGREE MURDER CASES**

This 10th day of September, 2002,

It Appearing That:

(1) On July 22, 2002 Senate Bill No. 449 was signed into law by the Governor thus amending 11 *Del.C.* § 4209 relating to the imposition of the death penalty.

(2) On August 30, 2002 the Supreme Court of Delaware accepted four questions certified by the Superior Court in the cases of *Miles Brice and Leon Caulk v. State of Delaware*, Del. Supr., No. 468, 2002. In accepting the certified questions the Supreme Court stated that “the questions of law certified are of first instance in this State, and should be settled by [the Supreme] Court” and that “the Certification demonstrates important and urgent reasons for an immediate determination” of the certified questions by the Supreme Court.

(3) The four questions accepted by the Supreme Court for determination are:

1. Are the Amendments contained in S.B. 449, 73 Del. Laws \_\_\_, to Delaware’s death penalty statute procedural in nature and therefore not in violation of the *ex post facto* clause of the

United States Constitution, Art. I, Section 10?  
*Cf. State v. Cohen*, 604 A.2d 846 (Del. 1992).

2. Does the decision of the United States Supreme Court in *Ring v. Arizona* require that a jury first find the existence of any specific non-statutory aggravating factor before it may be considered by the trial judge.
3. Does the decision of the United States Supreme Court in *Ring v. Arizona* require that a jury must find beyond a reasonable doubt that all aggravating factors found to exist outweigh all mitigating factors found to exist.
4. In the penalty hearing, authorized by 11 *Del. C.* § 4209(e)(2), may the court constitutionally direct a verdict as to those statutory aggravating circumstances that are necessarily established by conviction of the offenses charged?

(4) The determination of the certified questions is directly relevant to other capital murder cases pending and scheduled for trial and/or penalty hearing before this Court. Specifically, the determination will control the procedure to be applied in all such cases following the enactment of the amendments to 11 *Del. C.* § 4209. Briefing before the Supreme Court is scheduled for completion by October 30, 2002. A temporary stay of the pending trials and/or penalty hearings is warranted to ensure the application of the law consistent with the Supreme Court's determination of the certified questions. Such a temporary stay was done in 1991 when Section 4209 was previously amended and certified questions were accepted in *State v. Cohen*, Del. Supr., No. 412, 1991.

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**NOW, THEREFORE, IT IS DIRECTED**, with the concurrence of the Judges of the Superior Court, that all trials and penalty hearings in capital first-degree murder cases are temporarily stayed until the determination by the Supreme Court of Delaware of the questions of law certified in *Brice and Caulk v. State of Delaware*, Del. Supr., No. 468, 2002. All other aspects of the scheduling orders in such cases remain in effect unless modified by the trial judge.

/s/ Henry duPont Ridgely

President Judge

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oc: Prothonotaries

xc: Superior Court Judges

Hon. M. Jane Brady

Hon. Lawrence M. Sullivan

Clerk, Supreme Court of Delaware

Court Administrator

Superior Court Jury Manager

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